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Control No.

Recording requested by:
City of Milpitas

When recorded mail to:
**City of Milpitas
City Engineer's Office
455 E. Calaveras Blvd.
Milpitas, Ca 95035**

Record without fee under Section
6103-Government Code, State of
California

Document Transfer Tax is \$0

(x) Computed on full value of property conveyed

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City Transfer Tax is \$0

APN: N/A

RESOLUTION NO. _____

A RESOLUTION OF INTENTION TO VACATE A PORTION OF WELLER LANE AND WINSOR STREET FOR ROADWAY AND PUBLIC SERVICE UTILITY EASEMENT PURPOSES, TO RESERVE AND EXCEPT FROM VACATION AN EASEMENT FOR PUBLIC SERVICE AND UTILITY PURPOSES, AND TO RESERVE AND EXCEPT FROM VACATION AN EASEMENT FOR (SBC) PACIFIC BELL TELEPHONE FOR COMMUNICATION FACILITY PURPOSES, NOTICE OF PUBLIC HEARING THEREON

WHEREAS, the City Council, by Resolution No. 7558 adopted October 18, 2005 has declared its intention to vacate a portion of Weller Lane and Winsor Street for roadway easement, roadway dedication, and public service utility purposes, and to reserve and except from vacation an easement for public service and utility purposes, and to reserve and except from vacation an easement for (SBC) Pacific Bell Telephone, DBA in areas as described, and any other exceptions as the Council may determine, within the City of Milpitas, hereinafter more particularly described, and set a public hearing thereon; and

WHEREAS, Resolution No. 7558 fixed a time and place for hearing all persons interested in or objecting to the proposed vacation to wit: On Tuesday, November 15, 2005, at the hour of 7:00 p.m., in the Council Chambers at the City Hall, Milpitas, CA, which said time was not less than fifteen (15) days from the above mentioned date and the passage of Resolution No. 7558; and

WHEREAS, Resolution No. 7558 was published in the manner prescribed by Section 8322 of the Streets and Highways Code of the State of California; and

WHEREAS, on 7558, 2005, notices were conspicuously posted along the lines of the portions of said streets proposed to be vacated, not more than three hundred (300) feet apart; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Milpitas as follows:

SECTION 1. This Council finds that from all of the evidence submitted that a portion of Weller Lane, and Winsor Street, within the City of Milpitas, as described and depicted on Exhibit "A" attached hereto is unnecessary for present or prospective public use.

SECTION 2. It is hereby ordered that the subject streets, roadway easements, roadway dedications, and public service utility easements described and depicted on Exhibit "A" be and the same are hereby abandoned and vacated, pursuant to the provisions of the Public Streets, Highways and Service Easements Vacation Law, Streets and Highways Code Sections 8300 et seq.

SECTION 3. It is hereby ordered that the Council has determined that for public convenience and necessity to reserve and except from vacation an easement for public service and utility purposes and right of entry subject to the approval of the City for the existing utilities and services in the areas depicted on Exhibit "A". The public utility easement is for any time or from time to time to maintain, operate, replace, remove, renew, lines of pipe, conduits, cables, wires, poles, and other convenient structures, equipment and fixtures for the operation of any existing public utilities including but not limited to water, sewer, storm drain, gas, electric, telegraph and telephone lines and other communication facilities, including access and right to keep the property free from hazards, in upon, and across that portion or parts therefore.

SECTION 4. It is hereby ordered that the Council has determined that for public convenience and necessity to reserve and except from vacation an easement for (SBC) Pacific Bell Telephone DBA for existing communication facilities and right of entry in the areas as described on Exhibit "A". The easement reserved for (SBC) Pacific Bell DBA is for any time or from time to time to inspect, maintain, and operate existing underground lines of pipe, conduits, cables, wires, and other underground electrical conductors, poles, and other existing appurtenances and convenient structures, equipment and fixtures for the operation of existing underground communication facilities that will remain under the foundation of the City's Midtown East parking garage, including access and right to keep the property free from hazards, in upon, under, and across that portion or parts therefore.

The City reserves the right to use said real property for any and all purposes not inconsistent with the rights herein reserved including, but not limited to, construction and operation of an above ground vehicle parking garage, including access driveway.

(SBC) Pacific Bell Telephone DBA shall not erect any structure aboveground within said easement.

By accepting delivery of this easement reservation, (SBC) Pacific Bell Telephone DBA agrees to pay for any damages to, or relocation of City's real and personal property and improvements caused by (SBC) Pacific Bell Telephone DBA in maintaining and operating said existing communication facilities.

SECTION 5. The City Clerk is directed to cause a certified copy of this resolution, attested under seal to the City of Milpitas, to be recorded in the Office of the County Recorder of the Santa Clara County.

PASSED AND ADOPTED this ____ day of _____, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Mary Lavelle, City Clerk

Jose S. Esteves, Mayor

APPROVED AS TO FORM:

Steven T. Mattas, City Attorney

EXHIBIT "A"

Weller Lane and Winsor Street To Be Vacated

All of that certain real property situate in the City of Milpitas, County of Santa Clara, State of California, being portion of Weller Lane and Winsor Street, described as follows:

Beginning at the point of intersection of the westerly right of way line of the Union Pacific Railroad Company (formerly Southern Pacific Railroad Company) with the southerly right of way line of North Main Street (formerly San Jose-Oakland Road), said point of Beginning being also the Northernmost corner of Parcel Two as described in the Grant Deed conveyed to Apton Properties, LLC recorded February 4, 2003 under Document No. 16822346, Santa Clara County Official Records; thence from said point of Beginning along the westerly right of way of the Union Pacific Railroad Company, South $10^{\circ}33'15''$ East, 503.51 feet to the northeasterly corner of the Lands of the City of Milpitas as described in the Grant Deed to the City of Milpitas, dated October 20, 1958 and recorded December 10, 1958 as Book 4255 of Official Records of Santa Clara County, Page 455; thence leaving said westerly right of way line and along the northwesterly line of said Lands of the City of Milpitas (4255 O.R. 455), South $75^{\circ}51'45''$ West, 27.32 feet to a point in the easterly line of former Winsor Street, and being the **TRUE POINT OF BEGINNING** of this description; thence leaving said point the following two (2) courses:

- 1) North $10^{\circ}33'15''$ West, 114.48
- 2) South $79^{\circ}18'58''$ West, 242.97
concave to the east, having a radius of
North $86^{\circ}33'05''$ East;

Attach

angent curve to the right,
oint of radial line bears

thence southerly along said curve, through *Weller* and an arc length of 23.79 feet to the northwesterly corner of *ARS*, as described the Grant Deed to Milpitas Redevelopment Agency, recorded November 10, 2004 under Document No. 18093705, Santa Clara County Official Records; thence leaving said easterly line of said North Main Street, along the southeasterly line of former Weller Lane and the southwesterly line of Winsor Street the following three (3) courses;

- 1) North $75^{\circ}51'45''$ East, 165.51 feet;
- 2) South $24^{\circ}53'15''$ East, 57.07 feet;
- 3) South $10^{\circ}33'15''$ East, 456.42 feet to the southeasterly corner of the land conveyed to Thomas B. Winsor, et al, recorded March 13, 1950 as Book 1943 of Official Records of Santa Clara County, Page 585;

thence leaving said corner and said southwesterly line of Winsor Street North $76^{\circ}16'48''$ East, 66.10 feet to the northeasterly line of said Winsor Street; thence along the northwesterly line North $10^{\circ}33'15''$ West, 407.46 feet to the **TRUE POINT OF BEGINNING** of this description.

Containing 38,207 square feet, more or less.

EXHIBIT "A"

Public Service & Utility Easement Reservation

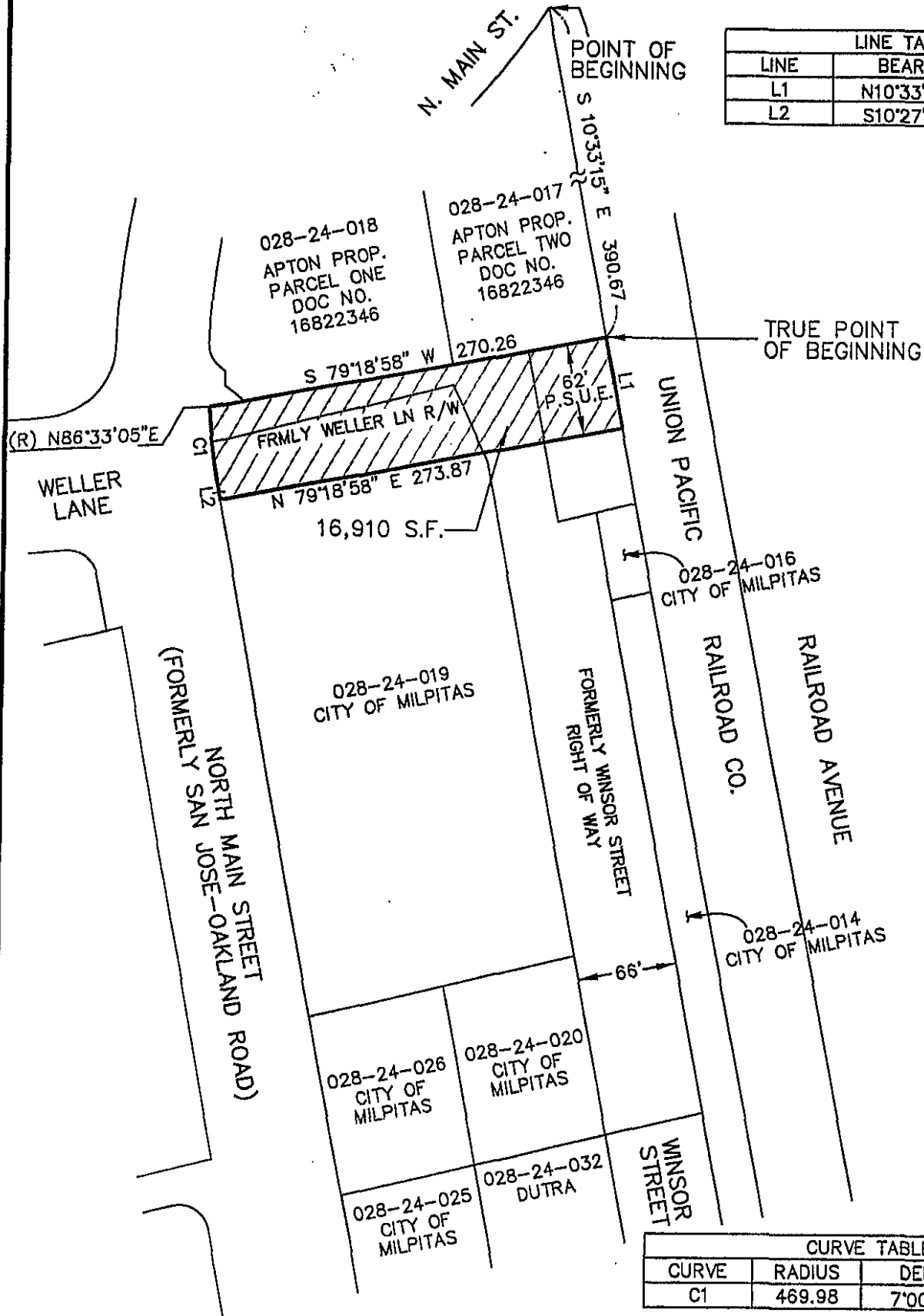
All of that certain real property situate in the City of Milpitas, County of Santa Clara, State of California, described as follows:

Being a portion of the Lands of the City of Milpitas, more particularly described as follows:

Beginning at the point of intersection of the westerly right of way line of the Union Pacific Railroad Company (formerly Southern Pacific Railroad Company) with the southerly right of way line of North Main Street (formerly San Jose-Oakland Road), said point of Beginning being also the northernmost corner of Parcel Two as described in the Grant Deed conveyed to Apton Properties, LLC recorded February 4, 2003 under Document No. 16822346, Santa Clara County Records; thence from said Point of Beginning along the easterly line of said Parcel Two, South $10^{\circ}33'15''$ East, 390.67 feet to a point on said easterly line of said Parcel Two and being the **TRUE POINT OF BEGINNING** of this description; thence leaving said point South $79^{\circ}18'58''$ West, 270.26 feet to the beginning of a non-tangent curve, concave to the east, having a radius of 469.98 feet, from said point of radial line bears North $86^{\circ}33'05''$ East; thence southerly along said curve, through a central angle of $07^{\circ}00'54''$ and for an arc length of 57.54 feet to a point on said easterly right of way line of North Main Street; thence along said right of way line South $10^{\circ}27'49''$ East; thence leaving said line North $79^{\circ}18'27''$ East, 273.87 feet to said westerly right of way line of the Union Pacific Railroad Company; thence along said right of way line North $10^{\circ}33'15''$ West, 62.00 feet to the **TRUE POINT OF BEGINNING** of this description.

Containing 16,910 square feet, more or less.

LINE TABLE		
LINE	BEARING	LENGTH
L1	N10°33'15"W	62.00
L2	S10°27'49"E	4.62



CURVE TABLE			
CURVE	RADIUS	DELTA	LENGTH
C1	469.98	7°00'54"	57.54



981 RIDDER PARK DRIVE
SUITE 100
SAN JOSE, CA 95131
408-467-9100
408-467-9199 (FAX)

Subject PUBLIC SERVICE & UTIL. EASEMENT
WELLY LN, MILPITAS
Job No. 20056022-10
By MCW Date 10-28-05 Chkd. MWB
SHEET 1 OF 1

EXHIBIT "A"
SBC Utility Easement Reservation

All of that certain real property situate in the City of Milpitas, County of Santa Clara, State of California, described as follows:

Being a portion of the Lands of the City of Milpitas, more particularly described as follows:

Beginning at the point of intersection of the westerly right of way line of the Union Pacific Railroad Company (formerly Southern Pacific Railroad Company) with the southerly right of way line of North Main Street (formerly San Jose-Oakland Road), said point of Beginning being also the northernmost corner of Parcel Two as described in the Grant Deed conveyed to Apton Properties, LLC recorded February 4, 2003 under Document No. 16822346, Santa Clara County Records; thence from said Point of Beginning along said westerly right of way of the Union Pacific Railroad Company, South $10^{\circ}33'15''$ East, 548.48 feet to the southeasterly corner of the Lands of City of Milpitas, as described in the Grant Deed conveyed to the City of Milpitas in Book 4255 of Official Records of Santa Clara County, Page 455; thence leaving said westerly right of way line and along the southeasterly line of said Lands of City of Milpitas, South $75^{\circ}58'35''$ West, 27.32 feet to a point in the easterly line of the former Winsor Street right of way, being the **TRUE POINT OF BEGINNING** of this description; thence leaving said point along said southeasterly line, South $75^{\circ}58'35''$ West, 7.01 feet; thence parallel with the easterly line of Winsor Street South $10^{\circ}33'15''$ East, 347.48 feet to the southeasterly line of the Lands of the City of Milpitas; thence along said line South $76^{\circ}16'48''$ West, 15.02 feet; thence parallel with said easterly line of said Winsor Street North $10^{\circ}33'15''$ West, 362.43 feet; thence North $75^{\circ}58'35''$ East, 22.04 feet to said westerly line of said Lands of the City of Milpitas (4255 O.R. 455); thence along said line South $10^{\circ}33'15''$ East, 15.03 feet to the **TRUE POINT OF BEGINNING** of this description.

Containing 5,542 square feet, more or less.

N. MAIN ST.

POINT OF BEGINNING

LINE TABLE		
LINE	BEARING	LENGTH
L1	S75°58'35"W	27.32
L2	S75°58'35"W	7.01
L3	S10°33'15"E	347.48
L4	S76°16'48"W	15.02
L5	N10°33'15"W	362.43
L6	N75°58'35"E	22.04
L7	S10°33'15"E	15.03

028-24-018
APT. PROP.
PARCEL ONE
DOC NO.
16822346

028-24-017
APT. PROP.
PARCEL TWO
DOC NO.
16822346

FRMLY WELLER LN R/W

WELLER LANE

UNION PACIFIC

028-24-016
CITY OF MILPITAS
4255 O.R. 455

028-24-019
CITY OF MILPITAS

SBC UTILITY ESMT.
5,542 S.F.±

TRUE POINT OF BEGINNING

RAILROAD CO.

RAILROAD AVENUE

(FORMERLY SAN JOSE-OAKLAND ROAD)
NORTH MAIN STREET

(FORMER RIGHT OF WAY OF WINSOR STREET)

028-24-014
CITY OF MILPITAS
755 O.R. 494

028-24-026
CITY OF MILPITAS

028-24-020
CITY OF MILPITAS

028-24-025
CITY OF MILPITAS

028-24-032
DUTRA



981 RIDDER PARK DRIVE
SUITE 100
SAN JOSE, CA 95131
408-467-9100
408-467-9199 (FAX)

Subject SBC UTILITY EASEMENT
WINSOR ST, MILPITAS
Job No. 20056022-10
By MCW Date 10-19-05 Chkd. MWB
SHEET 1 OF 1

PLANNING VALUE: 10-19-05
PLOT TIME: 10-19-05
PLOTTER: BKF